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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/078,975	02/19/2002	Petrus Henricus Cornelius Bentvelsen	NL010104	6523
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EXAMINER TRUONG, THANHNGA B				
ART UNIT 2435		PAPER NUMBER		
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/078,975

Applicant(s)BENTVELSEN, PETRUS
HENRICUS CORNELIUS**Examiner**

THANHNGA B. TRUONG

Art Unit

2438

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 January 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2-10 and 16-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 2-6-10 and 19 is/are rejected.
- 7) ☒ Claim(s) 3-5, 16-18 and 20-26 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This action is responsive to the communication filed on January 29, 2009. Claims 2-10 and 16-26 are pending. Claims 1 and 11-15 are cancelled. At this time, claims 2-10 and 16-26 are still rejected.

Response to Arguments

2. Applicant's arguments filed January 29, 2009 have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Chiasson et al (US 5,546,429 A).

The fact that Examiner may not have specifically responded to any particular arguments made by Applicant and Applicant's Representative, should not be construed as indicating Examiner's agreement therewith.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 2-3, 6-10, and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nagano (US 5,570,339), in view of Sauer et al (US 5,574,407), further in view of Chiasson et al (US 5,546,429 A).

a. *Referring to claim 2:*

i. Nagano teaches a method of embedding a secondary signal (inputted signal frequency signal, column 11, lines 61-67 of Nagano) of a secondary channel (interpreted as the channel which shows the flow of the key information inputted to the frequency generator 23 to the photomodulator 62, at Figure 15 of Nagano) in the bitstream of a primary signal (waveform string, column 11, lines 51-60 of Nagano) of a primary channel comprising:

(1) distorting the bitstream of the primary signal by a particular distortion **(in the photomodulator 62, the inputted waveform string and the inputted signal frequency signal are mixed and modulated a driving current of the semiconductor laser incorporated in the photomodulator 62, at column 11, line 66 through column 12, line 2 of Nagano);** and

(2) outputting the bitstream of the primary signal having the distorted bitstream **(the information signal is recorded in the rewritable optical disc 64, at Figure 15, and column 12, lines 2-8 of Nagano),**

(3) wherein the secondary signal is represented by the particular distortion **(Figure 23 generates a signal of single frequency according to the key information, at column 11, lines 61-65 of Nagano).**

ii. Although Nagano taught the claimed subject matter, Nagano is silent on the capability of showing wherein distorting the bitstream of the primary signal comprises inserting local phase errors in the bitstream of the primary signal. On the other hand, Chiasson teaches this limitation in column 7, lines 41-46 of Chiasson.

iii. It would have been obvious to a person having ordinary skill in the art at the time the invention was made to:

(1) have modified the invention of Nagano with the teaching of Chiasson to improve the technique of embedding.

iv. The ordinary skilled person would have been motivated to:

(1) have modified the invention of Nagano with the teaching of Chiasson to enhance the phase lock loop with error consistency detector.

b. Referring to claim 6:

i. Although Nagano and Sauer teach the claimed subject matter, Nagano further teaches:

(1) wherein the bitstream of the primary signal of the primary channel consists of a stream of bits **(which is inherently taught by Nagano as Nagano describes converting a sound signal into digital data using A/D converter, at column 11, lines 51-53 of Nagano)** for being recorded on an optical data

carrier (**optical disc 64, at Figure 15 of Nagano**), in the form of lands and marks (**information pits, at Figure 15 of Nagano**).

c. Referring to claim 7:

i. Although Nagano and Sauer teach the claimed subject matter, Nagano further teaches:

(1) wherein the secondary signal comprises a copy protection key or a digital right (**key information, at column 11, lines 61-65, and abstract of Nagano**).

d. Referring to claim 8:

i. This claim consists an apparatus for embedding a secondary signal of a secondary channel in the bitstream of a primary signal of a primary channel to implement claim 1 and is rejected with the same rationale applied against claim 1 above.

e. Referring to claim 19:

i. This claim has limitations that is similar to those of claim 6, thus it is rejected with the same rationale applied against claim 6 above.

Allowable Subject Matter

5. Claims 3-5, 16-18, and 20-26 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

6. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and

any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thanhnga (Tanya) Truong whose telephone number is 571-272-3858.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kim Vu can be reached at 571-272-3859. The fax and phone numbers for the organization where this application or proceeding is assigned is 571-273-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 571-272-2100.

/Thanhnga B. Truong/
Primary Examiner, Art Unit 2438

TBT
April 11, 2009